



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

MAY 8 2012

Mr. Gary L. Sherrer
Secretary of the Environment
Oklahoma Secretary of the Environment
3800 North Classen Boulevard
Oklahoma City, Oklahoma 73118

Dear Secretary Sherrer:

As a follow up to our recent discussions, I appreciate the commitment made by you and the Oklahoma Legislature to return the State's Public Water System Supervision (PWSS) Program to its exemplary implementation status of a decade ago. I am also pleased to hear about the near-term funding discussed with the Oklahoma Legislature, and your long-term objective to fully fund the Oklahoma Drinking Water Program. The anticipated \$200,000 supplemental appropriation from the Oklahoma Legislature for the current year is a clear sign of support for ensuring that all Oklahomans have confidence in their drinking water.

As we jointly move forward, EPA needs a defined path by the State of Oklahoma to support your objective to fully fund and operate the PWSS program. To accomplish this, I ask that, by September 30, you submit a plan with funding details for implementation of the entire PWSS Program. I believe full program funding should be in place by no later than June 1, 2013, with complete implementation of the PWSS Program no later than July 2013. This schedule will allow the Oklahoma Legislature time to consider the long-term funding and appropriations needed for comprehensive implementation of all of the PWSS Program. This should also allow the Oklahoma Department of Environmental Quality (ODEQ) the opportunity to adopt all necessary rules and regulations to support full implementation of the PWSS program. If possible, I also request that you present letters of support from the entities committed to the plan. In light of this collaborative approach, the EPA has no plans to withdraw primacy for the Oklahoma PWSS program at this time; however, if full funding and implementation cannot be accomplished by this schedule, EPA will have to reevaluate this position.

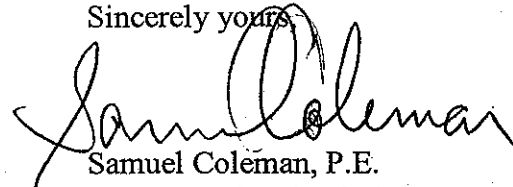
As we discussed last week, ODEQ and the EPA have dual enforcement authorities and responsibilities under the Safe Drinking Water Act (SDWA) for providing safe drinking water to the citizens of Oklahoma. EPA is committed to continuing our existing practice of coordinating and consulting with ODEQ on all SDWA inspections and enforcement actions consistent with the June 4, 2007, letter from John Blevins to Steve Thompson (see Enclosure 1).

In addition, in the short term (now until June 1, 2013), EPA is willing to work share with ODEQ in gathering data (inspections and information requests) to help you focus your enforcement actions until sufficient resources are committed to the PWSS program. For those portions of the program delegated to the State, EPA expects ODEQ to take the administrative enforcement necessary to resolve issues of non-compliance. However, if the ODEQ is unable to initiate an appropriate and timely enforcement action, EPA will undertake enforcement in order to protect public health and maintain the public's confidence and ensure the delivery of safe drinking water.

I believe that we have formed an extremely effective partnership with ODEQ on enforcement for all programs and expect this to continue in the SDWA arena. It is important to note, as discussed in our April 6 letter to Steve Thompson (Enclosure 2), limited State resources will result in an increased Federal presence as defined above. We will maintain this work sharing agreement through June 1, 2013. If at that time, ODEQ has not committed sufficient resources, and is not committed to fully and adequately implementing all PWSS programs, EPA will abandon its work sharing posture and move forward with aggressive EPA lead enforcement.

Let me say again that I appreciate you opening a dialogue with the Oklahoma Legislature on fully funding the drinking water program. I look forward to providing support or information, as needed, for Oklahoma to enjoy a fully resourced and exceptional program. Let me know if I can help in any way.

Sincerely yours,



Samuel Coleman, P.E.
Acting Regional Administrator

Enclosures



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DALLAS, TX 75202-2733

June 4, 2007

Mr. Steve Thompson
Executive Director
Oklahoma Department of Environmental Quality
707 N. Robinson
Oklahoma City, OK 73102

Dear Mr. Thompson: ^{STEVE}

As a follow-up to the May 10th meeting between our staffs concerning inspection targeting, I want to take the opportunity to reemphasize our commitment to collaboration and coordination with ODEQ. At the same time, I also want to stress the importance of understanding and valuing our respective enforcement responsibilities.


One of the issues discussed during this meeting involved planned federal-lead inspections in the National Priority areas of storm water and sanitary sewer overflows. EPA, nationally, has a responsibility for establishing and maintaining a federal presence in these and other priority areas. We committed to work with ODEQ on joint planning for such actions, and we always welcome state participation in federal-lead inspections, but we must reserve the right to inspect and pursue federal enforcement actions in appropriate situations. This is a consistent message that EPA is sending to each state.

For non-priority areas, it is our general practice, when asked, to allow a state the lead in administrative enforcement actions. In cases deserving judicial attention, it is likewise our practice to invite states to be co-plaintiffs. We value your staff's expertise and professionalism, and the need for EPA to take the lead on certain enforcement actions (especially those in National Priority areas) is not in any way a negative reflection on your agency.

Another item discussed was our request that each state work with us to better target our enforcement actions based on environmental impact and/or environmental benefit. Some of the Region 6 states have requested flexibility targeting based on criterion other than a percentage of the regulated universe. I think this is a great idea and warrants further discussion on the specific details. In the Air Program we are encouraging the expanded use of partial compliance evaluations (versus full compliance evaluations). In our Water Program we are supportive of requests to inspect more minors and less majors, generally at a 2:1 tradeoff.

Again, we are committed to working closely with you both in terms of inspections and enforcement actions. If you or your staff should have any questions on this or related matters, please feel free to call me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John Blevins", with a stylized flourish extending from the end.

John Blevins
Director
Compliance Assurance and
Enforcement Division



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APR 06 2012

Steven A. Thompson, Executive Director
Oklahoma Department of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

Dear Mr. Thompson:

This letter is sent to advise you of increased efforts planned by EPA Region 6 to further the Safe Drinking Water Act public health protection objectives for Oklahoma public water system consumers. This approach involves increased oversight of the Oklahoma Department of Environmental Quality (ODEQ) Public Water System Supervision (PWSS) Program and increased compliance monitoring and enforcement for Oklahoma public water systems.

Since 2006, EPA Region 6 has been directly implementing new drinking water regulations in Oklahoma. Direct implementation by EPA Region 6 has been necessary because ODEQ has lacked adequate resources to adopt and implement new drinking water regulations. While direct implementation of new drinking water regulations was expected to be only a short term, interim effort, EPA Region 6 is now concerned about the sustainability of ODEQ's PWSS program. Adding to the concern of seeing no commitment by ODEQ to adopt and implement new drinking water regulations, EPA Region 6 is further alarmed by findings from the 2011 End of Year Review and the August 2011 File Review, which both reflect deficiencies in implementation and enforcement of regulations that ODEQ has already adopted. For these reasons, EPA Region 6 is committing more resources to ODEQ PWSS program oversight and enforcement.

A successful drinking water primacy program is able to adopt and implement new drinking water regulations, excels in implementation of existing regulations, and conducts key primacy program activities in accordance with Title 40 of the Code of Federal Regulations Part 142.16. It is important to note that the other four EPA Region 6 State drinking water programs have been able to satisfy these drinking water primacy requirements. ODEQ was the first state agency in the nation to receive primacy for the PWSS program, and, until recent years, ODEQ's program was exemplary in adopting and implementing new rules to keep their PWSS program current. We have been surprised to see Oklahoma's program go from a national leader to one that trails the other States in the Region. The two-year extensions granted by EPA Region 6 have long expired for adoption of the three most recent drinking water rules. The extension deadline for both the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 ESWTR) and Stage 2 Disinfectants and Disinfection Byproduct Rule (Stage 2 DBPR) expired in January 2010, and the Groundwater Rule (GWR) extension deadline expired in November 2010.

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In addition to delayed rule adoption, EPA Region 6 is very concerned with the following program deficiencies found in the August 2011 File Review:

- Sanitary surveys are not including all eight required elements defined in the Interim Enhanced Surface Water Treatment Rule (IESWTR) and Ground Water Rule (GWR).
- Lack of Synthetic Organic Chemicals (SOCs) monitoring schedules for new sources
- Discrepancies related to increased repeat sampling under the Total Coliform Rule (TCR), as well as late compliance determinations
- 90th percentile sample values or Action-Level Exceedance (ALE) values for lead and copper are not entered into SDWIS/State in a timely fashion and are not being calculated correctly (these calculations are done manually by ODEQ staff and are not automated)
- Delayed Notice of Violation letters has resulted in requests for Public Notice (PN) being sent approximately six months after a violation occurs. This is especially troubling in the case of acute public health risks with TCR and ESWTR MCL and Treatment Technique (TT) violations that occur on a monthly basis.

Based on the recent findings from the 2011 End of Year Review and August 2011 File Review mentioned above, EPA Region 6 plans to increase federal oversight of the Oklahoma PWSS Program and will work closely with your staff in developing corrective actions. Concurrent to increased oversight and development of PWSS program corrective actions, EPA Region 6 plans to increase its drinking water enforcement efforts in Oklahoma. The first steps EPA Region 6 will undertake include issuing information requests to drinking water suppliers, performing inspections, and initiating enforcement actions. These actions will begin by summer 2012. EPA Region 6 is taking these steps to ensure the continued delivery of safe drinking water to Oklahoma residents.

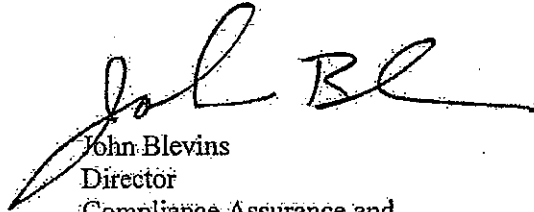
Although we understand the fiscal constraints that Oklahoma has been under and continues to face, we continue to believe that it is most cost effective for the State -- rather than the federal government -- to implement the PWSS program. To this end, EPA Region 6 will continue to work closely with ODEQ to develop strategies to address ODEQ's challenges, as well as ensuring the citizens of Oklahoma have access to safe drinking water. Please recognize that while EPA Region 6 is increasing PWSS oversight and enforcement efforts in Oklahoma, we likewise expect ODEQ to increase efforts to maintain an effective PWSS program. Unless state support for the drinking water program increases, ODEQ's ability to maintain its drinking water primacy program will be in jeopardy.

EPA Region 6 looks forward to working with ODEQ in providing citizens of Oklahoma a safe and sustainable supply of drinking water. Please feel free to contact us with questions or concerns regarding PWSS oversight or drinking water enforcement in Oklahoma.

Sincerely yours,



William K. Honker, P.E.
Acting Director
Water Quality Protection Division



John Blevins
Director
Compliance Assurance and
Enforcement Division